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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.   | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------|------------------|
| 10/601,045  | 06/20/2003  | Michael J. Racich    | 2259-1-3              | 8231             |
| 996   | 7590        | 03/14/2006           | EXAMINER              |                  |
| GRAYBEAL, JACKSON, HALEY LLP<br>155 - 108TH AVENUE NE<br>SUITE 350<br>BELLEVUE, WA 98004-5901 |             |                      | STOKES, CANDICE CAPRI |                  |
|   |             |                      | ART UNIT              | PAPER NUMBER     |
|   |             |                      | 3732                  |                  |

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| <b>Office Action Summary</b> | Application No. | Applicant(s)  |
|------------------------------|-----------------|---------------|
|                              | 10/601,045      | RACICH ET AL. |
| Examiner                     | Art Unit        |               |
| Candice C. Stokes            | 3732            |               |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1)  Responsive to communication(s) filed on 20 June 2003.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4)  Claim(s) 1-19 is/are pending in the application.  
    4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-5,8-13,16 and 17 is/are rejected.

7)  Claim(s) 6,7,14,15,18 and 19 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 20 June 2003 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 08/18/03.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4,8,13, and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwestka-Polly (USPN 5,281,135). Schwestka-Polly discloses an apparatus (see Figure 1) for verifying the interrelationship between dental casts of a patient's upper and lower teeth using a group of dental interocclusal records comprising: a mounting surface (3) with a clamping system (8,10) to hold one of the upper and lower dental casts in an anchored position in order to receive the other of the dental casts in a supported position with one dental interocclusal record of the group insertable between the upper and lower dental casts; an indexing system (as shown in Figure 3) associated with the mounting surface (3) for marking the dental cast in the supported position with at least three index marks for the one dental interocclusal record (see abstract), whereby the interrelationship of the dental casts is considered accurate if a second dental interocclusal record of the group results in the same at least three index marks being made to the dental cast in the supported position. This also anticipates claim 16. As to claim 2, the indexing system comprises at least three, spaced arms (42,45,28), each arm being pivotally mounted (by way of arm 17 and pin 16) to the mounting surface (3) and movable between a stowed position parallel to a side edge of the mounting surface and a working position upstanding from the mounting surface, and each arm (42,45,28) including a marking guide (38,39,30) for marking

one of the at least three index marks on the dental cast in the supported position when the at least one arm is in the working position. Regarding claim 3, the marking guide (38,39,30) comprises a tubular member (43,41) to slidably receive and guide a marking tool (42,45). With respect to claim 4, the marking tool (42,45) is a pin member. As to claims 13 and 17, the apparatus includes an additional mounting surface (4) with a clamping system (5,6) for receiving the other of the dental casts.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1) Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schwestka-Polly in view of Phoenix et al (USPN 6,050,816). Schwestka-Polly discloses the claimed invention except for the marking tool comprising a unit for generating a laser beam to indicate the index mark. Phoenix et al teaches marking tool (14) comprising a unit (28) for generating a laser beam to indicate the index mark. It would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate a unit for generating a laser beam for marking as taught by Phoenix et al into the apparatus disclosed by Schwestka-Polly in order to provide a guide for marking the dental cast using the marking tool.

2) Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwestka-Polly in view of Faiersstain (USPN 5,716,209). The clamping system comprising a pair of spaced clamping blocks movable with respect to each other. Faiersstain teaches a

clamping system (70) which comprises a pair of spaced clamping blocks (79,76) movable with respect to each other to grip and hold one of the upper and lower dental casts therebetween. As to claims 9 and 10, at least one of the clamping blocks (79) is mounted for movement along a clamping rail (71) extending between the clamping blocks (79,76). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a pair of clamping blocks movable with respect to each other for increased adjustability of fitting the patient's dental cast in order to better insure accuracy of final treatment.

3) Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schwestka-Polly in view of Schreiber (USPN 4,889,486). Schwestka-Polly discloses the claimed invention except for the clamping system comprising a magnet in the base to releasably engage a corresponding member in surface in the dental cast. Schreiber teaches a magnet (700) in the base to releasably engage a corresponding member in surface in the dental cast. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the magnet as taught by Schreiber in order to provide more secure fixation of the dental cast into the cast plate or mounting surface.

*Allowable Subject Matter*

Claims 6-7,14-15, and 18-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Candice C. Stokes whose telephone number is (571) 272-4714. The examiner can normally be reached on 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Ccs*  
Candice C. Stokes

*Cary E. O'Connor*  
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Primary Examiner